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6 CRYSTAL LEI

11 DEMAS YAN,) CASE NO. 3:11-cv-01814-RS
12 Appellant,)
13 vs.)
14 TONY FU, CRYSTAL LEI, WEI SUEN,)
15 BRYANT FU, and STELLA HONG)
16 CHEN,)
17 Appellees.)
18

19 Judgment creditor Crystal Lei (“Lei”) hereby replies to the response of judgment debtor
20 Demas Yan (“Yan”) to the order to show cause and related declaration filed on October 12, 2017
21 (docket nos. 65 and 65-1). Yan’s response is further evidence of his manifest contempt of orders
22 of this Court. In a nutshell, Yan clearly believes that producing documents after this Court has
23 made an express order compelling such production is something which remains in Yan’s sole and
24 absolute discretion. Particularly egregious is the claim that Lei did not meet and confer after
25 receiving Yan’s woefully deficient document production; such was totally unnecessary given that
26 failed prior meet and confer efforts were precisely what precipitated the original order compelling
27 production entered on August 10, 2017 (docket no. 60). Moreover, Yan’s failure to respond
28 substantively to the points raised in Lei’s second application for order to show cause re contempt

1 (docket no. 62) demonstrates beyond all doubt that Yan has no basis for disobeying a direct Court
 2 order to produce documents which he concedes are in his possession, custody, and control. Such
 3 amply warrants his being held in contempt of this Court. Moreover, the privilege claims
 4 belatedly asserted as to various categories of documents ordered produced by this Court, having
 5 not been asserted at any time prior to the production date specified in the subpoena, were
 6 completely waived. In re Pacific Pictures Corp., 679 F.3d 1121, 1130 (9th Cir. 2012); U.S. ex rel
 7 Schwartz v. TRW, Inc., 211 F.R.B. 388, 392 (C.D. Cal 2002). Yan makes no effort whatsoever to
 8 even argue to the contrary¹.

9 Yan has been held in contempt by numerous courts and this Court should follow their
 10 example and hold Yan in contempt and order sanctions against him in the amount of \$6,407.50
 11 plus \$500.00 per day of additional sanctions from and after August 31, 2017 until Yan complies
 12 with this Court's order as expressly authorized by United States v. Bright, 596 F.3d 683, 696 (9th
 13 Cir. 2010).

14 DATED: October 16, 2017

SERLIN & WHITEFORD, LLP

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 16 By: /s/ Mark A. Serlin
 17 MARK A. SERLIN, Attorneys for Judgment
 Creditor CRYSTAL LEI
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24 1 Yan's belated assertion of attorney-client privilege as to sources of income is totally without
 25 merit; billing statements and payments from clients are not privileged under controlling Ninth
 26 Circuit authority. Clarke v. American Commerce Nat'l Bank, 974 F.2d 127, 130 (9th Cir. 1992);
Real v. Continental Group, Inc., 116 F.R.D. 211, 213-14 (N.D. Cal. 1986). See also U.S. v.
Landon, 06-3734 (N.D. Cal. Oct. 30, 2006) and Adobe Systems, Inc. v. St. Paul Fire & Marine Ins.
Co., 07-00385 (N.D. Cal. April 9, 2008). Yan's attorney-client privilege claim is similarly
 27 inapposite as to documents relating to the alleged assignment of the Fung judgment.
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